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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,855	04/06/2001	Krister Draxo	7112	8864

7590

05/04/2004

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EXAMINER

BOYD, JENNIFER A

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/827,855

Applicant(s)

DRAXO ET AL.

Examiner

Jennifer A Boyd

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1,4 and 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-10 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. The Applicant's Amendments and Accompanying Remarks, filed February 19, 2003, have been entered and have been carefully considered. Claims 1, 4 and 11 – 15 stand withdrawn and claims 1 – 20 are pending. In view of Applicant's Arguments that the fiber-reinforced sheet of Andersen is not considered to be a fabric, the Examiner withdraws the rejection as detailed in paragraph 7 of the Office Action dated September 25, 2003. In view of the Applicant's Arguments that Draxo (US 6,337,104) does not qualify as prior art, the Examiner withdraws the rejection as detailed in paragraph 5 of the Office Action dated November 25, 2003. However, after an updated search, additional prior art was found. The invention as currently claimed is not found to be patentable for reasons herein below.

Claim Rejections - 35 USC § 103

2. Claims 2 – 3, 5 – 6, 9 and 16 - 20 are rejected under 35 U.S.C. 103(a) as being unpatentable Tucci et al. (US 6,015,570) in view of Fagan (US 4,783,354).

Tucci is directed to a slow-release insect repellent composition (Abstract), which can be used for commercial finishes such as wall and floor coverings (column 10, lines 45 – 65).

As to claims 16 - 17, Tucci teaches an insect-repellent composition applied to a fabric substrate (column 3, lines 60 – 68). Tucci teaches that the fabric substrate may comprise a fiberglass nonwoven or woven material (column 4, lines 1 – 10). Tucci teaches that the insect-repellent composition can comprise an acrylic copolymer and insect repellent N,N'-diethyl-m-toluamide (DEET) combined in aqueous form and dried on the substrate (column 3, lines 30 –

Art Unit: 1771

45). It should be noted that when the acrylic copolymer is in aqueous form, it can be considered to be a latex. Tucci teaches that the composition can additionally contain a starch (column 4, lines 15 – 20). The Examiner equates the insect-repellent composition to Applicant's "first dried coating".

As to claim 2, Tucci teaches that the fabric substrate may comprise a fiberglass woven material (column 4, lines 1 – 10).

As to claim 3, Tucci teaches that the fabric substrate may comprise a fiberglass non-woven material (column 4, lines 1 – 10).

As to claim 5, Tucci teaches that the starch is a potato starch (column 4, lines 15 – 20).

As to claim 6, Tucci teaches that insect-repellent composition can comprise an acrylic copolymer in aqueous form and dried on the substrate (column 3, lines 30 – 45). It should be noted that when the acrylic copolymer is in aqueous form, it can be considered to be a latex.

As to claim 9, Tucci teaches that the insect-repellent composition can comprise pigment (column 6, lines 50 – 55).

As to claims 16 – 17 and 20, Tucci teaches the claimed invention except fails to teach that the second dried coating comprises a paraffin wax and a rheology modifier.

Fagan is directed to a sheet material suitable for use as wallpaper (Abstract). Fagan teaches that the sheet material can be firmly adhered to a surface, and yet readily removed therefrom, without the necessity of pre-wetting and without damaging the surface (Abstract). Fagan teaches a pressure sensitive adhesive coating comprising wax such as paraffin wax (column 4, lines 50 – 67) and a thickener, or rheology modifier (column 5, lines 36 – 45). Fagan

Art Unit: 1771

teaches that the thickener can be ASE-75, which is known in the art to be an acrylic-based thickener (column 5, lines 50 – 57 and see Description of ACRY SOL ASE-75).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pressure sensitive adhesive coating of Fagan as the second dried coating of Tucci motivated by the desire to easily remove the wallpaper without damaging the application surface.

As to claims 18 - 19, Tucci in view of Fagan discloses the claimed invention except for that the starch is present in the amount ranging from about 10 to 70% by weight and the polymeric latex binder is present in the amount ranging from about 20 – 80% by weight based on the total dried weight of the first coating as required by claim 18 and the paraffin wax is present in the amount ranging from 80 – 99% by weight and the rheology modifier is present in the amount ranging from about 1 to 20% by weight as required by claim 19. It should be noted that the amount of wax and rheology modifier is a result effective variable. For example, as the amount of wax incases, the adhesive becomes less sticky and as the amount of rheology modifier increases, the adhesive becomes thicker. It would have been obvious to one having ordinary skill in the art at the time the invention was made to the paraffin wax is present in the amount ranging from 80 – 99% by weight and the rheology modifier is present in the amount ranging from about 1 to 20% by weight, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have been motivated to optimize the amount of wax and rheology modifier in the adhesive to create an easily removable and viscous solution which has a high adherence strength.

Art Unit: 1771

3. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable Tucci et al. (US 6,015,570) in view of Fagan (US 4,783,354), as applied above, and in further view of Sheehan (US 3,640,743).

Tucci teaches that the insect-repellent composition can comprise pigment (column 6, lines 50 – 55), however, fails to teach that the pigment can be titanium dioxide.

Sheehan teaches the use of titanium dioxide as a pigmenting material for coating compositions and for opacifying resinous materials including laminates, which is conventionally used in wallcoverings and other applications (Abstract). Sheehan teaches that titanium dioxide possesses improved resistance to discoloration and chalking upon exposure to ultraviolet light (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the titanium dioxide of Sheehan as the pigment in the wallcovering of Tucci in view of Fagan motivated by the desired to use a conventional opacifying wallpaper pigment having improved resistance to discoloration and chalking upon exposure to ultraviolet light.

4. Claims 7 – 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable Narukawa et al. (US 4,148,781) in view of Fagan (US 4,783,354).

Narukawa is directed to a flexible building sheet material (Title) having features which permit processing of the material into wall-covering materials such as wallpaper (column 1, lines 65 – 69).

Art Unit: 1771

As to claim 17, Narukawa teaches a building sheet formed from an aqueous solution, or Applicant's "first dried coating", containing a water-soluble polymer and a cross-linking agent or a thermoplastic resin emulsion, or a mixture of both these materials. Suitable examples of the water-soluble polymer include starch (column 2, lines 20 – 35). Narukawa teaches that the thermoplastic resin emulsion can be an acrylic polymer emulsion (column 3, lines 50 – 55). Narukawa teaches that the building sheet may also include a glass paper, glass mat or glass cloth (column 4, lines 40 – 45). Narukawa teaches that the aqueous solution is converted into a slurry and by means of a dipping method, the reinforcing web material is passed through the slurry which is deposited on both sides of the reinforcing web (column 5, lines 20 – 25).

As to claim 7, Narukawa teaches that the aqueous solution, or "first dried coating", comprises a cross-linking agent (column 2, lines 20 – 35).

As to claim 8, Narukawa teaches that the aqueous solution, or "first dried coating", comprises a zirconium oxychloride cross-linking agent (column 3, lines 20 – 25).

As to claim 17, Narukawa teaches the claimed invention except fails to teach that the second dried coating comprises a paraffin wax and a rheology modifier.

Fagan is directed to a sheet material suitable for use as wallpaper (Abstract). Fagan teaches that the sheet material can be firmly adhered to a surface, and yet readily removed therefrom, without the necessity of pre-wetting and without damaging the surface (Abstract). Fagan teaches a pressure sensitive adhesive coating comprising wax such as paraffin wax (column 4, lines 50 – 67) and a thickener, or rheology modifier (column 5, lines 36 – 45). Fagan

Art Unit: 1771

teaches that the thickener can be ASE-75, which is known in the art to be an acrylic-based thickener (column 5, lines 50 – 57 and see Description of ACRY SOL ASE-75).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the pressure sensitive adhesive coating of Fagan as the second dried coating of Narukawa motivated by the desire to easily remove the wallpaper without damaging the application surface.

Art Unit: 1771

Response to Arguments

5. Applicant's arguments with respect to claims 2 – 3, 5 – 10 and 16 - 20 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 571-272-1473. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer Boyd

April 28, 2004


Ula C. Ruddock
Primary Examiner
Tech Center 1700